

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION

No. 5:97-CR-00142-F-3
No. 5:16-CV-00361-F

MARK A. WILLIAMS,)
Petitioner,)
v.)
UNITED STATES OF AMERICA,)
Respondent.)

ORDER

This matter is before the court *sua sponte*. Presently pending before this court is Mark A. Williams' Motion to Vacate, Set Aside, or Correct Sentence pursuant to 28 U.S.C. § 2255 [DE-635, -643, -647]. In his § 2255 motion, Williams asserts challenges based on *Johnson v. United States*, 135 S. Ct. 2551 (2015). On July 18, 2016, the Government was directed to file an Answer pursuant to Rule 5, Rules Governing Section 2255 Proceedings, or to make such other response as appropriate within forty (40) days. Then, on July 25, 2016, the Fourth Circuit Court of Appeals entered an order [DE-650] noting that Williams had filed a motion for authorization to file a second or successive¹ § 2255 motion based on *Johnson*. The Fourth Circuit held that Williams' reliance on *Johnson* was misplaced² and denied his motion for authorization. Then, on August 26, 2016, the Government moved to stay this case pending the Supreme Court's final

¹ A review of the record reveals that Williams previously filed a § 2255 motion [DE-542] on December 22, 2003. On April 8, 2004, this court allowed the Government's uncontested motion to dismiss.

² The Fourth Circuit noted that Williams was not sentenced as an armed career criminal or a career offender, and he did not receive a sentencing enhancement based on a prior violent felony conviction.

decision in *Beckles v. United States*, 15-8544.³ This court allowed the Government's motion.

Now, it appears the stay was improvidently allowed. Therefore, the stay is LIFTED.

Pursuant to Rule 4(b) of the Rules Governing Section 2255 Proceedings, the United States Attorney is DIRECTED to file an Answer pursuant to Rule 5, Rules Governing Section 2255 Proceedings, or to make such other response as appropriate within **twenty (20)** days of the filing of this order.

SO ORDERED.

This 17 day of September, 2016.



JAMES C. FOX
SENIOR UNITED STATES DISTRICT JUDGE

³ On June 27, 2016, the Supreme granted certiorari in *Beckles*. The questions presented in *Beckles* include whether *Johnson* applies retroactively to collateral claims challenging sentences enhanced under the residual clause in U.S.S.G. § 4B1.2(a)(2). *See* <http://www.supremecourt.gov/search.aspx?filename=/docketfiles/15-8544.htm> (last accessed September 15, 2016).